

CAUSE NO. **C-4597-18-C**

RICARDO VILLARREAL,	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
VS.	§	HIDALGO COUNTY, TEXAS
	§	
THE CITY OF PALMVIEW,	§	
<i>Defendant.</i>	§	_____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION, REQUEST FOR DISCLOSURE,
AND REQUEST FOR TEMPORARY RESTRAINING ORDER**

TO THE HONORABLE OF SAID COURT:

NOW COMES RICARDO VILLARREAL, Plaintiff in the above styled and numbered cause, and files this original petition and request for disclosure, and shows as follows:

I. DISCOVERY-CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 and affirmatively pleads that this suit is not governed by the expedited in Texas Rule of Civil Procedure 169 because Plaintiff requests injunctive relief.

II. CLAIM FOR RELIEF

2. Plaintiff seeks monetary relief of \$100,000 or less and nonmonetary relief. Nevertheless, Plaintiff will not accept any monetary relief in the nature of damages that may be granted, except for attorney fees and court costs that I expend to vindicate my rights.

III. PARTIES

3. Plaintiff, RICARDO VILLARREAL, is an individual residing in Hidalgo County at 305 N. Minnesota Rd., Palmview, Texas 78572.

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4. Defendant, THE CITY OF PALMVIEW, a city located in Hidalgo County, Texas, may be served with process by serving the secretary, Annette Villarreal, at 400 W. Veterans Blvd., Palmview, Texas 78572, or wherever she may be found, under the authority of Texas Civil Practice & Remedies Code section 17.024(b).

IV. JURISDICTION

5. The Court has jurisdiction over this claim because the amount in controversy exceeds this Court's minimum jurisdictional limits.

V. VENUE

6. Venue is mandatory in Hidalgo County, Texas, under Texas Civil Practice & Remedies Code § 101.102(a) because this is the county where the cause of action arose.

VI. FACTS

7. On November 6, 2018, THE CITY OF PALMVIEW ("the City") held an election for the purpose of electing a mayor and two councilmembers. Plaintiff was an unopposed candidate for mayor, but the electoral races for the two city council seats were opposed. After officials counted the votes, the City certified Plaintiff as mayor of the City, Joselito "Hoss" Hernandez as councilmember, place 2, and Arturo "Art" Alaniz as councilmember, place 4. The City formalized its certification in City Ordinance No. 2018-16-O. (See Affidavit of Ricardo Villarreal, attached hereto and incorporated herein for all purposes, and marked "Exhibit "1").

8. After the election and certification of Plaintiff as mayor, Christina Worrell Adkins, Legal Director of the Elections Division of the Texas Secretary of State's office, expressed her non-binding opinion to the City Attorney Eric Flores, on December 3, 2018

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that a vacancy has occurred for the mayor's seat because there were two opposed at-large races on the ballot and Plaintiff did not receive the votes required to become mayor although Plaintiff was the only candidate for the position of Mayor of Palmview. Ms. Adkins opined that a special election under Article 11 Section 11 of the Texas Constitution must be held within 120 days from the date of the creation of the vacancy. Ms. Adkins advised that the vacancy was created on the date of the canvass, November 20, 2018. Ms. Adkins also opines that the Plaintiff is the "de facto" mayor of the City of Palmview and can continue as the Mayor.

9. The City of Palmview plans to hold a special election pursuant to Ms. Adkins opinion although she indicated that it was not complete since she could not and was not expressing an opinion of how the City of Palmview city charter impacted the issue. Plaintiff seeks a declaratory judgment declaring Plaintiff as mayor of the City of Palmview, and a temporary restraining order preventing any city council official, officer or employee of the City of Palmview from taking any steps or actions to initiate the calling, scheduling or holding a special election for the position of Mayor of Palmview since I am already been certified and sworn in as the Mayor.

VII. CAUSE OF ACTION

COUNT 1 – DECLARATORY JUDGMENT

10. Pursuant to Texas Civil Practice and Remedies Code § 37.001, et seq., Plaintiff seeks a declaratory judgment declaring his rights, status, and other legal relations of the parties with respect to Plaintiff's position as mayor of the City. Plaintiff seeks a judgment declaring Plaintiff mayor of the City.

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VIII. APPLICATION FOR EX-PARTE TEMPORARY RESTRAINING ORDER AND TEMPORARY INJUNCTION

11. Plaintiff asks this Court to grant an Ex-parte Temporary Restraining Order, Temporary Injunction, and/or Permanent Injunction immediately preventing the City from holding a special mayoral election.

12. Plaintiff asks that this Court grant the Temporary Restraining Order *ex parte* because it clearly appears from specific facts shown by affidavit that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Tex. R. Civ. P. 680.

13. Plaintiff is willing to post a bond.

IX. REQUEST FOR DISCLOSURE

14. Under Texas Rule of Civil Procedure 194, Plaintiff requests that the City disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

X. OBJECTION TO ASSOCIATE JUDGE

15. Plaintiff objects to the referral of this case to an associate judge for hearing a trial on the merits or presiding at a jury trial.

XI. PRAYER

16. Plaintiff prays that the City be cited to appear and answer and that upon final hearing, Plaintiff recover judgment against the City for all relief to which Plaintiff has above plead and to which he may be entitled under law and equity.

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Respectfully submitted,

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